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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.3 OF 2007

Minafax Computers Limited & Ors. ... Petitioners

V/s.

Dena Bank & Anr. ... Respondents

Mr.S.Malik a/w Mr.Tanvir Shaikh for Petitioners
Mr.Anup Khaitan i/b Anup Khaitan & Co. for Respondent No.1
Ms.Jyoti Saigal for Respondent No.2

CORAM: **R.M. LODHA &**
SMT.NISHITA MHATRE, JJ.

DATED: **JANUARY 15, 2007**

P.C.:

. We heard the Counsel for the Petitioners and the Counsel for Respondent No.1 Bank.

2. The principal contention raised by the Counsel for the Petitioners in challenging the action under section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 (for short, 'Act of 2002') is that in response to the notice under section 13(2) dated 30.6.2006, the Petitioners had submitted their reply on 22.8.2006 and raised various objections therein but the said objections were brushed aside without any application of mind in a cryptic manner in the communication dated

28.8.2006 which according to the Counsel for the Petitioners is not in conformity with the decision of the Supreme Court in the case of *Mardia Chemicals Ltd. & Ors. v/s. Union of India*, **2004(2) Mh.L.J. 1090** and of the Division Bench decision of this Court in the case of *M.R. Gawai Enterprises v/s. Vidarbha Urban Co-op. Bank Ltd. & Anr.*, **2005(1) Bom.C.R. 276.**

3. In response thereto, the Counsel for the Bank submitted that all the objections raised by the Petitioners in the notice stand duly answered in the original application made by the Bank for recovery of the outstanding amount before the Debt Recovery Tribunal and that the objections raised by the Petitioners have been specifically denied in the communication dated 28.8.2000. He also submitted that the Petitioners have adequate and efficacious remedy for redressal of their grievance relating to the action under section 13(4) by way of proceedings before the Debt Recovery Tribunal under section 17 of the Act of 2002.

4. We find substance in the submission of the Counsel for the Bank that the Petitioners' grievance can be adequately redressed by pursuing the remedy under section 17 of the Act of 2002. In this view of the matter, we are satisfied that no case for invocation of

extraordinary jurisdiction is made out. Writ Petition does not deserve to be entertained and is dismissed in limine.

5. All contentions raised by the Petitioner in the Writ Petition are kept open to be agitated in the proceedings under section 17 of the Act of 2002.

(R.M. Lodha, J.)

(Nishita Mhatre, J.)